

EXHIBIT T

0CHSCONTORINIS

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4

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v.

09 Cr. 1083

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JOSEPH CONTORINIS,

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Defendant.

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December 17, 2010

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2:45 p.m.

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Before:

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HON. RICHARD J. SULLIVAN,

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District Judge

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APPEARANCES

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PREET BHARARA

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Acting United States Attorney for the

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Southern District of New York

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ANDREW L. FISH,

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REED M. BRODSKY,

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Assistant United States Attorneys

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PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

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Attorneys for Defendant

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BY: MARK F. POMERANTZ

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ROBERTO FINZI

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THEODORE WELLS, JR.

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FARRAH R. BERSE

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1 people like you in your profession who will look to this
2 sentence, will read about it, who will learn about it and who
3 will be affected by it and will understand that a statement has
4 been made, and you will become in a sense a poster child for
5 what happens when do you this kind of thing. That is an
6 acceptable objective of sentencing and that is nothing new.
7 That is long before the guidelines. Long before 3553(a) of
8 Title 18 that has been something that has significance.

9 So all of these things, you know, lead me to weigh
10 this very carefully, but the fact of the matter is I am struck
11 by the fact that you really did not seem to recognize the
12 seriousness of this crime up through even the trial. And
13 everyone has a right to go to trial, but to take the stand and
14 then to lie on the stand is something that I think is worthy of
15 very definite consideration. That is the only conclusion that
16 can be drawn from the testimony you gave. And so I think an
17 extra penalty has to be paid for that as well, because a
18 message has to be sent that one has a right to testify but they
19 don't have a right to testify falsely. And when you do testify
20 falsely you will be punished more harshly than those who don't.
21 There are many who go to trial who don't testify falsely. So
22 that is another factor that really weighs on me.

23 So in light of all of that I have to say I am
24 persuaded that a significant sentence is appropriate. I think
25 the guidelines range here is 97 to 121 months. I am prepared

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1 to impose a sentence of 72 months. That is 6 years. And it's
2 less than the guidelines because, first of all, I don't think
3 there is any magic to the guidelines and I don't think anyone
4 can argue that there is. I think it is true that the fraud
5 table is sometimes a clumsy tool to measure loss or gain or
6 seriousness of the crime. I think there is a reason why we
7 have it. I think it's useful. It's useful in the same way
8 that quantity tables are useful in drug cases but they are not
9 the whole story.

10 So in this case I am persuaded that 72 months is more
11 appropriate than the 97 that would be called for by the
12 guidelines.

13 I also think it's worth noting that Mr. Contorinis
14 has, as Mr. Finzi alluded to, led an otherwise law-abiding
15 life; that the duration of this crime was months but it wasn't
16 years. There is no indication, as is the case in other cases
17 in this courthouse, where people have persistently over time
18 repeatedly for years engaged in a steady practice of insider
19 trading. There is no evidence really of that in this case
20 here. It was relatively isolated. The information provided by
21 Mr. Stefano to Mr. Contorinis.

22 So I think that is another reason why a sentence below
23 the guidelines is appropriate.

24 So it's my intention to impose a sentence of 72 months
25 to run concurrent on the counts of conviction. I guess the

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1 first count is only up to 5 years but concurrent on all the
2 counts. Two years of supervised release to follow the term of
3 imprisonment to run concurrently on each of the counts.

4 With respect to a fine, I am not going to impose a
5 fine. I am going to really focus on forfeiture. In this case
6 I am prepared to find the \$7.2 million forfeiture amount for
7 the January trades. With respect to the loss avoided, I do
8 think that that also should be included in the forfeiture
9 amount. I take the point it's a little hard to pinpoint so I
10 am prepared to basically take I guess whatever the price during
11 the day is that results in the least loss, so whether that is
12 the starting selling price or the closing selling price I think
13 in the interest of being conservative I will use that as the
14 basis to conclude what the loss avoided was for December and so
15 that will be part of my order. I don't think it will be that
16 much different than what the government has asked for but I
17 will do that when I review the exhibit that was offered at
18 trial.

19 Mr. Fish, that is an exhibit at trial, you said that
20 before.

21 MR. FISH: I think so. My only concern is I think
22 that the forfeiture has to be fixed as part of sentencing, so I
23 am just not sure it can wait until afterwards.

24 THE COURT: I don't know if I have to give it to the
25 penny as part of sentencing. It's going to be part of the